



**MINUTES
FREMONT PLANNING COMMISSION
REGULAR MEETING OF DECEMBER 8, 2005**

CALL TO ORDER: Chairperson Harrison called the meeting to order at 7:00 p.m.

PRESENT: Chairperson Harrison, Commissioners Chan, Lorenz, Lydon, Sharma, and Weaver

ABSENT: Commissioner King

STAFF PRESENT: Jeff Schwob, Planning Director
Larissa Seto, Senior Deputy City Attorney II
Norm Hughes, City Engineer
Wayne Morris, Associate Planner
Cliff Nguyen, Planner II
Momo Ishijima, Planner II
Joel Pullen, Planner I
Alice Malotte, Recording Clerk
Chavez Company, Remote Stenocaptioning
Miriam Shallit, Video Technician

ELECTION OF OFFICERS FOR 2006:

IT WAS MOVED (WEAVER/LORENZ) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION ELECT **VICE CHAIRPERSON LYDON** AS CHAIRPERSON AND **COMMISSIONER CHAN** AS VICE CHAIRPERSON FOR THE YEAR 2006.

APPROVAL OF MINUTES: Regular Minutes of November 17, 2005 were approved as submitted.

CONSENT CALENDAR

THE CONSENT LIST CONSISTED OF ITEM NUMBERS 1, 3, 5, AND 7.

IT WAS MOVED (WEAVER/CHAN) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1-1) THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTION ON ITEM NUMBER 3.

Item 3. **CANYON HEIGHTS TENTATIVE TRACT MAP - 40770 Canyon Heights Drive – (PLN2005-00234)** to consider a Planned District Minor Amendment, a Finding for General Plan Conformity and Vesting Tentative Tract Map 7632 for a five lot subdivision and surplus land sale of approximately 4.9 acres in the Mission San Jose Planning Area. A Mitigated Negative Declaration was previously adopted for this project.

Commissioner Lorenz recused himself because his residence was within 500 feet of the site.

HOLD PUBLIC HEARING;

AND

FIND THE PREVIOUSLY APPROVED MITIGATED NEGATIVE DECLARATION WITH A CERTIFICATE OF FEE EXEMPTION ADDRESSES THE PROPOSED PROJECT AND NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED;

AND

FIND PLN2005-00234, (PLANNED DISTRICT MINOR AMENDMENT AND VESTING TENTATIVE TRACT MAP 7632), ARE IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE AND OPEN SPACE CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT;

AND

FIND THAT THE DISPOSITION AND SALE OF THE SUBJECT PUBLIC PROPERTY IS IN CONFORMANCE WITH THE GENERAL PLAN;

AND

FIND PLN2005-00234, AS PER EXHIBIT "C" (PRELIMINARY PLANNED DISTRICT), FULFILLS THE APPLICABLE REQUIREMENTS SET FORTH IN THE FREMONT MUNICIPAL CODE;

AND

FIND PLN2005-00234 PER EXHIBIT "A" (VESTING TENTATIVE TRACT MAP 7632) AND, EXHIBIT "B" (FINDINGS AND CONDITIONS); FULFILLS THE APPLICABLE REQUIREMENTS SET FORTH IN THE FREMONT MUNICIPAL CODE;

AND

APPROVE PLN2005-00234, PER EXHIBIT "C" (PRELIMINARY PLANNED DISTRICT), PER EXHIBIT "A" (VESTING TENTATIVE TRACT MAP 7632), PER EXHIBIT "E" (CANYON HEIGHTS DEVELOPMENT STANDARDS AND DESIGN GUIDELINES) AND SUBJECT TO FINDINGS AND CONDITIONS IN EXHIBIT "B".

The motion carried by the following vote:

AYES:	5 – Chan, Harrison, Lydon, Sharma, Weaver
NOES:	0
ABSTAIN:	0
ABSENT:	1 – King
RECUSE:	1 – Lorenz

IT WAS MOVED (SHARMA/LORENZ) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTION ON ITEM NUMBERS 1, 5, AND 7.

- Item 1. PROLOGIS – Pacific Commons Development Agreement – (PLN2006-00031)** – to consider a City Manager's report on the annual review of the development agreement for the property generally located westerly of Interstate 880 between Auto Mall Parkway and Cushing Parkway in the Industrial Planning Area. An EIR and Supplement EIR ("SEIR") were previously approved for the Pacific Commons Project. An Addendum to the SEIR was prepared and adopted for the Planned District Major Amendment (PLN2003-00166) finding the project to be consistent with the original plan and environmental documents. This review is not a project as defined in the CEQA Guidelines, Section 15378, no further action is required.

HOLD PUBLIC HEARING;

AND

FIND THE ANNUAL REVIEW OF THE DEVELOPMENT AGREEMENT IS NOT A PROJECT DEFINED IN CEQA GUIDELINES SECTION 15168 AND THAT NO FURTHER ENVIRONMENTAL DOCUMENTATION IS NEEDED FOR THIS REVIEW;

AND

FIND AND DETERMINE ON THE BASIS OF SUBSTANTIAL EVIDENCE IN THE RECORD OF THE PROCEEDINGS, THAT FOR THE REVIEW PERIOD JUNE 1, 2004 TO MAY 31, 2005, THE DEVELOPER HAS GENERALLY COMPLIED WITH ITS OBLIGATIONS UNDER THE 2000 AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN THE CITY OF FREMONT AND PROLOGIS FOR THE PACIFIC COMMONS PROJECT.

- Item 5. FREMONT PARK GOLF CENTER TEE STRUCTURE- 39751 Stevenson Place – (PLN2005-00281)** - to consider a Conditional Use Permit amendment to construct a two story tee structure at the location of the existing tee stations located on the existing golf driving range site at Fremont Park Golf Center in the Central Planning Area. A Mitigated Negative Declaration has been prepared and circulated for this project.

Chairperson Harrison had received comments from a senior women's group who stated that this golf center charged the same as the nine-hole golf course at Sunol (with cart), but that the golf center did not have a food and beverage facility. He asked that staff encourage the golf center to work with those groups who were its mainstay during the week.

HOLD PUBLIC HEARING;

AND

FIND THE INITIAL STUDY CONDUCTED FOR THE PROJECT HAS EVALUATED THE POTENTIAL IMPACTS THAT COULD CAUSE AN ADVERSE EFFECT, EITHER INDIVIDUALLY OR CUMULATIVELY, ON WILDLIFE RESOURCES. THEREFORE, FIND THAT THERE IS NO EVIDENCE THE PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES AND RECOMMEND THE FILING OF A CERTIFICATE OF FEE EXEMPTION FOR THE PROJECT;

AND

ADOPT (MITIGATED) NEGATIVE DECLARATION PLN2005-00281, WITH ACCOMPANYING CERTIFICATE OF FEE EXEMPTION, FIND THAT IT REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT, AND FIND THERE IS NO SUBSTANTIAL EVIDENCE THAT THE PROJECT, AS MITIGATED, WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT;

AND

APPROVE MITIGATION MONITORING PLAN FOR THE PROJECT;

AND

FIND PLN2005-00281 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE AND PARKS AND RECREATION CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT;

AND

FIND PLN2005-00281 PER EXHIBIT "A" (PLAN) AND EXHIBIT "B" (FINDINGS AND CONDITIONS) FULFILLS THE APPLICABLE REQUIREMENTS SET FORTH IN THE FREMONT MUNICIPAL CODE;

AND

APPROVE PLN2005-00281 IN CONFORMANCE WITH EXHIBIT "A" (PLAN) AND EXHIBIT "B" (FINDINGS AND CONDITIONS).

- Item 7. STANCULEANU VARIANCE - 38551 Jones Way - (PLN2006-00030)** - to consider a third party appeal of a variance to allow a 1-foot 6-inch encroachment into the required 25-foot front yard setback for a garage expansion. This project is categorically exempt from CEQA review, per Section 15301(e).

MODIFICATION TO STAFF REPORT (pg. 2):

The immediate neighbor's ~~garage~~ living room to the left of the subject property is already encroaching into the front yard setback by approximately 1 foot and 6 inches.

HOLD PUBLIC HEARING;

AND

DENY APPEAL.

The motion carried by the following vote:

AYES:	6 – Chan, Harrison, Lorenz, Lydon, Sharma, Weaver
NOES:	0
ABSTAIN:	0
ABSENT:	1 – King
RECUSE:	0

PUBLIC COMMUNICATIONS

ORAL COMMUNICATIONS

PUBLIC HEARING ITEMS

- Item 10. FAMILY WATER PLAY FACILITY – 40500 Paseo Padre Parkway – (PLN2006-00079)** - to consider a Conditional Use Permit to allow the operation of a family water play facility in the now closed Swim Lagoon in Central Park. The water play facility will include recreational facilities such as water slides, a recreational/lap pool, children's and youth water play areas, lazy river, fountains, sprays, and other play structures. In addition, a request for a Variance to allow the height of the slides to be higher than 30 feet. The project is located at the former Water Lagoon site in Central Park east of Paseo Padre Parkway between Stevenson Boulevard and Grimmer Boulevard in the Central Planning Area. A Mitigated Negative Declaration has been prepared and circulated for this project.

Planning Director Schwob noted that the Commissioners had two options:

- Grant the variance for the increased height of the structure or
- Find that the slide structure is a public building that falls within the exception allowed for height because it would be set further back from the property lines than was required.

Chairperson Harrison opened the public hearing.

Rick Hood, 19-year resident across the street from the proposed facility, stated that he did not oppose the facility, but did have two concerns; they were noise and view. He asked what his recourse might be if the noise and/or the view had not been mitigated properly.

Dinesh Maheshwari also lived across the street from the proposed facility and he expressed concerns that included increased traffic, noise, view and how property values would be affected. Noise from the proposed 30-foot slide would be difficult to contain with just walls. Paseo Padre Parkway was already heavily traveled by drivers who did not observe the speed limits. He asked how the extra parking would be accommodated, as he had noticed that the parking lots were usually full on weekends and during the summer months and sometimes spilled over into the nearby residential area. He understood that the existing trees and the trees that were to be planted should shield the view of the slide from his neighborhood. Finally, he feared that his and his neighbors' property values would be negatively affected.

Planning Director Schwob introduced Annabell Holland, Director of Parks and Recreation, and Roger Ravenstad, Senior Landscape Architect.

Director Holland stated that she could not speak to property values; however, she believed that a park with more amenities would increase the surrounding property values. This new facility would bring fewer patrons to the park than what the original swim lagoon had been designed to do (5,000 people per day). This facility would accommodate a maximum of 2,000 per day, which would entail allowing two groups each of 1,000 people to use the facility, since a maximum of 1,000 people would be allowed into the facility at one time. Therefore, there would be less noise and traffic in the vicinity of the park. The slides would be "very low profile," unlike the very tall slides seen in local water parks that were approximately 70 feet high. This slide would be 40 feet high and 200 feet long. Photos included in the Commissioner's packet had been taken from various residential areas of a bucket truck that had been raised to the height of the proposed slide, and it had been very difficult to see. A parking study had been conducted over three peak weekends in the summer, and it was true that the front parking lots along Paseo Padre Parkway were always full. The lots in front of the swim lagoon along Paseo Padre Parkway were not always full and had many open parking spaces available behind the swim lagoon during the time of the study. She agreed that parking spilled into the residential areas. It was not because there was not enough parking, but because people preferred to park across the street from the Community and Senior Centers. There had been no parking issues when the previous swim lagoon was in use. She encouraged neighbors to contact her if they had any problems with the facility.

Landscape Architect Ravenstad added that the existing trees were not at their full height and they still had screened the bucket truck very well from the two areas where the photos were taken. Many more trees would also be planted. He walked to the site plan and pointed out how the facility would be located within the park.

Commissioner Lorenz asked how concerned citizens could become involved with this project.

Landscape Architect Ravenstad stated that public meetings had been held to ascertain the public's concerns and this plan reflected those comments, including the concerns for screening. The Recreation Commission could be contacted and, as Director Holland had stated above, she could be contacted, also.

Senior Deputy City Attorney Seto clarified that this was an application for a Conditional Use Permit and if concerns were raised, this project could be brought back to the Planning Commission for further modifications.

Commissioner Lorenz suggested that the previous speaker, Rick Hood, was the best person to address property values, as he was a local realtor.

Mr. Hood believed that anything that improved this jewel of a park would improve property values throughout the area.

Commissioner Sharma complimented staff on the comprehensive photos that showed how difficult it would be to see the slide structure from Paseo Padre Parkway.

Commissioner Chan asked if adequate signage was available to direct people to the underutilized parking areas.

Director Holland replied that each entrance had parking signage, but there was no signage in front of the Community Center concerning available parking that was located in another direction.

Commissioner Chan asked if more signage could be installed that would alleviate the spillover parking in the neighborhood.

Director Holland agreed to look into it.

Chairperson Harrison closed the public hearing.

Commissioner Sharma suggested that the Commission find that the slide structure was a public building, and therefore qualified for an exception allowing increased height because increased setback was provided.

Chairperson Harrison asked if staff had a preference.

Planning Director Schwob stated, in his opinion, the slide structure met the spirit and intent of the exemption.

Commissioner Weaver suggested that a motion be made to approve staff's recommendation, along with the finding that the slide would be a public structure.

Chairperson Harrison stated that he had spoken with friends about a similar facility in the City of Newark. That facility charged adults accompanying children the same rate as people who actually intended to use it. He asked staff to consider some way to accommodate adults who would accompany their children without actually using the facility.

Director Holland replied that the City was contemplating the idea of charging the usual entry fee and giving each adult a "spectator's fee" wristband of a certain color. If the wearer entered the water, the wristband would come off. However, if the wearer still had the wristband intact when he/she departed the facility, they would be given a refund.

IT WAS MOVED (WEAVER/LORENZ) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1-0) THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

AND

FIND THE INITIAL STUDY CONDUCTED FOR THE PROJECT HAS EVALUATED THE POTENTIAL IMPACTS THAT COULD CAUSE AN ADVERSE EFFECT, EITHER INDIVIDUALLY OR CUMULATIVELY, ON WILDLIFE RESOURCES. THEREFORE, FIND THAT THERE IS NO EVIDENCE THE PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES AND RECOMMEND THE FILING OF A CERTIFICATE OF FEE EXEMPTION FOR THE PROJECT;

AND

ADOPT DRAFT (MITIGATED) NEGATIVE DECLARATION PLN2006-00079, WITH ACCOMPANYING CERTIFICATE OF FEE EXEMPTION, FIND THAT IT REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT, AND FIND THERE IS NO SUBSTANTIAL EVIDENCE THAT THE PROJECT, AS MITIGATED, WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT;

AND

APPROVE MITIGATION MONITORING PLAN (EXHIBIT "5") FOR THE PROJECT;

AND

FIND THAT PLN2006-00079 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS, AND POLICIES SET FORTH IN THE GENERAL PLAN'S FUNDAMENTAL GOALS, LAND USE, PUBLIC FACILITIES, AND PARKS AND RECREATION CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT;

AND
FIND THAT PLN2006-00079 IS IN CONFORMANCE WITH THE ZONING REQUIREMENTS OF THE O-S, OPEN SPACE ZONING DISTRICT, WITH THE FINDING THAT THE SLIDE STRUCTURE IS A PUBLIC BUILDING QUALIFYING FOR INCREASED HEIGHT;

AND
APPROVE PLN2006-00079, EXHIBIT "A", THE CONDITIONAL USE PERMIT, SUBJECT TO FINDINGS AND CONDITIONS IN EXHIBIT "B".

The motion carried by the following vote:

AYES:	6 – Chan, Harrison, Lorenz, Lydon, Sharma, Weaver
NOES:	0
ABSTAIN:	0
ABSENT:	1 – King
RECUSE:	0

- Item 2. MISSION CLAY PRODUCTS - 2225 Old Canyon Road – (PLN2000-00136)** – to consider a final quarry Reclamation Plan and Preliminary Grading Plan for property at the easterly terminus of Old Canyon Road in the Niles Planning Area. A Mitigated Negative Declaration has been prepared and circulated for this project.

MODIFICATIONS TO STAFF REPORT

Staff Report p.3 - Compliance with Measure T (Hill Area Initiative of 2002) - third paragraph, first sentence:

Although areas of the proposed reclamation and regrading have slopes of 30% or greater, State law preempts strict application of Measure T, thus the regrading for ~~reclamation~~ reclamation purposes would be allowed.

Staff Report p.5 - Hazardous Materials - third paragraph:

Contaminated soil from a leaking fuel tank has been removed from the site to an approved disposal site. ~~Since work began on removal of the contaminated soil, another contaminated site has been found.~~ Petroleum hydrocarbon contamination was detected in the vicinity of both a former underground fuel tank and in two underground concrete vaults on the site. The two releases are located in two different areas of the site. Even though the concrete vaults are not a traditional fuel "tank", the contamination resulting from the release will have to be remediated. Removal of petroleum residue continues at both sites. Six wells have been constructed for monitoring progress on the cleanup. The applicant continues to work with the Alameda County Water District on the contamination issues.

Staff Report p.6 - Responses from Agencies and Organizations - third paragraph:

~~None~~ Alameda County Water District (ACWD) submitted comments regarding the final reclamation plan, findings and conditions of approval on December 8, 2005. Staff will work with the applicant to revise comments on page 6 of the Reclamation Plan - CCR 3710(a) to reflect the requirement to meet and conform to all Alameda County Water District work plans for surface and groundwater protection and clean up.

MODIFICATIONS TO FINDINGS AND CONDITIONS

Exhibit B - Reclamation Plan Finding

3. The reclamation plan has been reviewed pursuant to California Environmental Quality Act (CEQA) and the City's environmental review guidelines. Significant adverse impacts related to the reclamation of the surface mining operations are associated with fuel tank and concrete vault leakage, potential disturbance to an archeological site and potential erosion, dust creation and noise impacts occurring during regrading of the site. The soil

contamination is being removed under the direction of the Alameda County Water District and the City of Fremont Fire Department and the contaminated area will be monitored. Conditions of approval include measures requiring ~~completion~~execution of the Alameda County Water District work plan requirements, erosion and dust control measures and hours of construction to mitigate the identified and potential adverse impacts to the maximum extent feasible.

Exhibit B - Conditions

7. The applicant shall ~~complete~~meet and conform to all requirements of the Alameda County Water District ~~work plan~~, City of Fremont Fire Department and the Regional Water Quality Control Board. Such cleanup shall be coordinated with the reclamation project, and the reclamation project may commence in the reasonable discretion of the City Engineer. Should conflicts occur between the clean up efforts and the site reclamation, which may require minor modifications to the grading permit, the applicant shall apply to the City Engineer for an amendment to the grading permit. Significant modifications that are not consistent with the reclamation plan and preliminary grading plan, in the reasonable determination of the City Engineer, shall be referred to the Planning Commission for approval, and may also be referred to the ACWD and RQWCB.

8. Prior to issuance of a grading permit to fill the soil remediation area, the applicant shall obtain authorization from the Alameda County Water District and the applicant shall provide the City Engineer evidence that the remediation is complete Alameda County Water District has authorized backfilling of the remediation area, and the ability to proceed with backfilling is in the reasonable discretion of the City Engineer.

18. Any monitoring water well, that is shown on reclamation plan map, is known to exist, is proposed to exist, or is located during the course of field operations, must be properly destroyed, backfilled, or maintained in accordance with applicable groundwater protection ordinances. All wells at the site should be protected during reclamation activities. If any wells are damaged or lost during construction activities, the wells must be repaired, located, and/or replaced in accordance with Alameda County Water District (ACWD) guidelines. All well destruction must also be performed in accordance with ACWD guidelines.

Blair Dahl, real estate advisor with Rosetta Advisors, stated that this was one of the initial steps to allow for ultimate use of the property. Concerning the leaking fuel tanks, the property was bought by his client in 1961. Approximately 20 years later, concrete vaults were discovered that were full of a minimally refined crude oil that had been used to fuel the kilns in the factory. The vaults were pumped out. He guessed that sometime between 1906 and 1961 the crude oil had leaked out of the vaults. They hoped to regrade the site, demolish the old improvements out and bring the property up to a more natural condition, as a step toward a development proposal, once other issues were worked out.

Chairperson Harrison asked the speaker if he approved of the modifications to the staff report. He also asked if the speaker had received the same letter that staff had received from the Alameda County Water District.

Mr. Dahl replied that he agreed with the staff report modifications and that he had received the letter.

Commissioner Chan asked if the ultimate development of the property would be commercial or residential.

Mr. Dahl stated that it would probably be residential. The property located below the toe of the hill had been specifically zoned for residential density of up to one unit per acre.

Planning Director Schwob explained that in 1994 the City Council had applied an Open Space designation with a maximum density of one unit per one acre below the toe of the hill line.

Commissioner Lorenz asked how big the vaults were.

Mr. Dahl replied that one held 14,000 gallons and the other held 29,000 gallons. They measured 20 feet by 10 feet by 9 feet deep.

Vice Chairperson Lydon asked if the vaults had been removed.

Mr. Dahl stated that they had been pumped and removed.

Chairperson Harrison opened the public hearing.

John Cant, Canyon Heights Drive resident, stated that he would address issues connected to the development of the property for residential homes, along with two other future nearby residential projects. He understood that the private access road (an extension of Old Canyon Road) was too narrow to be used for regular access when and if that parcel was developed for residential homes. He had heard a rumor that someone was considering constructing a new road to the site from upper Stenhammer Drive, and he and his neighbors were very concerned. This possible project, along with the Greenbriar Homes and the Mission Peak development, would bring more traffic, turning his neighborhood into a freeway. He asked that staff consider all three projects together and how they would impact his neighborhood, rather than each one individually.

Chairperson Harrison closed the public hearing.

Commissioner Sharma thanked the applicant for his information about the long-term plan for this property. However, the issues of development were not before the Commission at this time and would be decided upon later down the road.

IT WAS MOVED (SHARMA/WEAVER) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1-0) THAT THE PLANNING COMMISSION **HOLD PUBLIC HEARING;**

AND

FIND THE INITIAL STUDY CONDUCTED FOR THE PROJECT HAS EVALUATED THE POTENTIAL IMPACTS THAT COULD CAUSE AN ADVERSE EFFECT, EITHER INDIVIDUALLY OR CUMULATIVELY, ON WILDLIFE RESOURCES. THEREFORE, FIND THAT THERE IS NO EVIDENCE THE PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES AND RECOMMEND THE FILING OF A CERTIFICATE OF FEE EXEMPTION FOR THE PROJECT;

AND

ADOPT THE DRAFT MITIGATED NEGATIVE DECLARATION FOR THE PROJECT FINDING THAT THERE IS NO SUBSTANTIAL EVIDENCE THAT THE PROJECT, AS MITIGATED, WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND FURTHER FINDING THAT THIS ACTION REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;

AND

APPROVE A MITIGATION MONITORING PLAN FOR THE PROJECT;

AND

FIND THAT THE PROPOSED PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S OPEN SPACE, NATURAL RESOURCES AND HEALTH AND SAFETY CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT. THE PROJECT

**CONFORMS TO THE GOALS AND POLICIES AS ENUMERATED IN THE STAFF REPORT AND FINDINGS EXHIBIT ADOPTED/RECOMMENDED HEREWITH;
AND
APPROVE PLN2000-00136, AS SHOWN ON EXHIBIT “A”, SUBJECT TO FINDINGS AND CONDITIONS IN EXHIBIT “B”.**

The motion carried by the following vote:

AYES:	6 – Chan, Harrison, Lorenz, Lydon, Sharma, Weaver
NOES:	0
ABSTAIN:	0
ABSENT:	1 – King
RECUSE:	0

- Item 4. WALNUT AVENUE PROJECT – 3651 Walnut Avenue – (PLN2005-00256)** – to consider a Central Business District Concept Plan amendment to allow High Density Residential development 50-70 units/acre on a 3.89-acre parcel located in the Central Planning Area. A Mitigated Negative Declaration has been prepared and circulated for this project.

Commissioner Lorenz and **Chairperson Harrison** disclosed that they had met with the applicant.

Adam Tenant, applicant, Summerhill Homes, introduced other Summerhill people and consultants for this project. He stated that he planned to come back to the Commission with detailed plans and architecture sometime next year. This proposal was the result of dialogue between staff and Summerhill Homes, and it was hoped this development would “kick start” the Central Business District. The original proposal had not met staff’s vision for the CBD, which they saw as a pedestrian-friendly “gateway” into the CBD. Staff eventually invited Summerhill Homes to submit a new proposal that would take into consideration that State Street would be extended through his property. This turned out to be a good idea, as it helped to create a more urban environment of three and four-story condominiums with a minimum density of 50 units per acre. He proposed a 36-foot wide median on State Street. The downtown retail plan would compliment his residential “rooftops,” which were needed to create a sustainable downtown.

Commissioner Sharma asked why the retail space was planned to total just 4,800 square feet on Walnut Avenue and why retail space was not planned for the other corners of the building.

Mr. Tenant replied that after meeting with the City Economic Development group and their retail consultant, it was decided that locating retail along Walnut Avenue was preferable to retail on Beacon Avenue, which would not provide the needed visibility for a successful establishment. “Dark retail space” was not to anyone’s benefit. Office space was considered on Beacon Avenue, but it was decided that it would not be compatible with the rest of the development.

Commissioner Sharma stated that he wondered why more retail space was not feasible for the development when the shoppers would be right there.

Mr. Tenant stated that Walnut Avenue and State Street would not be a retail destination like Central [Capitol] Avenue and State Street would be.

Commissioner Lorenz stated that he had expressed a similar concern during his meeting with the applicant. He asked if Summerhill Homes was in the business of constructing residential homes and was not in the business of building retail spaces. He agreed with Commissioner Sharma that the corners of the development might be the best location for

retail space while not necessarily adding any square footage, but just the relocation of the retail to the corners.

Mr. Tenant agreed that Summerhill Homes was primarily a residential builder.

Chairperson Harrison stated that during his meeting with the applicant, he also had questioned the small amount of retail planned for the development and he feared that it had been added for "retail's sake." His concerns were that the majority of parking would be on Beacon while the retail would be located on Walnut Avenue, which could discourage people from patronizing the retail shops because the parking would not be conveniently located. He stated that at another project, Starbucks had six parking spaces in front and if they were all taken, potential customers drove on by. He asked if the applicant's "retail person" could come forward to speak to the Commission.

Mr. Tenant stated that his company had struggled with the same questions. He believed that the parking spaces that would be available along Walnut Avenue would provide sufficient parking for the commercial spaces.

Randol Mackley, principal with Retail Real Estate Group, stated that his company had been focusing during the past ten years on mixed-use projects.

Chairperson Harrison asked his opinion about locating retail at the corners of the property and why he believed the majority of the location of the planned parking would not hinder the retail businesses.

Mr. Mackley replied that mixed use was essentially conflicting uses, with venting, power, odor intrusion, trash management and parking that needed to be carefully coordinated. Beacon Avenue would provide enough parking, but no identity. Walnut Avenue would provide the identity but less parking. His company ultimately recommended that the retail be located on Walnut Avenue for that reason. Pedestrian traffic was unlikely on Beacon Avenue where Walnut Avenue was a more dominant street in terms of traffic and identity. He believed that the basic retail uses would be in the 3,000 square foot range, which was smaller than in other locations in the CBD. He stated that the owner of a business that required a 300,000 dollar investment would not be interested in locating in a community of 227 households, which would be too small to generate enough sales to allow the retail store to be successful.

Commissioner Sharma stated that it seemed the speaker's argument was that if a customer did not reach these retail shops by driving, he/she would not shop. However, it was hoped that within 10 or 15 years, the CBD would be full of pedestrians who would patronize all of the downtown shops, which this project would be a part of.

Mr. Mackley stated that there were different shopping experiences and he gave some examples, such as, a dominant downtown street that had businesses on both sides of the street, which encouraged one to park and walk to the various businesses. That was not possible in this case. He complimented the city on its retail recruitment. However, if the retail spaces were to be leased for a very long time, locating them on Walnut Avenue was the safest route to go.

Chairperson Harrison stated for the record that Mr. Fields in the Economic Development Department had told him that they were very supportive of the location and the design of the project.

Mr. Tenant closed with the promise to refine the design, adding that they would consider all of the Commissioners' comments.

Commissioner Lorenz asked if the drawing showed parallel parking on Walnut Avenue. He asked what Summerhill Homes planned to do with the retail space, considering they were not a retail developer.

Mr. Tenant stated that he was correct about the parking, and he added that the parking would wrap around the corner to California Street. He guessed that it would be sold to a retail developer at some later date, as Summerhill Homes did not plan to retain the ownership of those spaces.

Chairperson Harrison closed the public hearing.

Commissioner Weaver would vote to approve staff's recommendation. She believed that Summerhill Homes and their consultants had done the best job possible. She was happy to see some development at this location, as it had been "bare for so long." She believed it would work.

Commissioner Chan noted that the report stated that from 1990 to 2005, 71 percent employment growth had been expected. She asked what the employment growth was projected to be during the next 10 to 15 years. She asked if there was any projection for future development for the vacant parcel adjacent to this project. She also expressed concern about residential projects displacing office projects.

Planning Director Schwob believed there would definitely be growth, but he would not speculate what the percentage might be. The medical office market was strong, particularly in the CBD. However, besides biotech job opportunities at Ardenwood, he did not see many other kinds of jobs being created within the city at this time. At the present time, the adjacent property owner had not indicated any interest in doing anything with property. The CBD plan had indicated this site might be appropriate for a performing arts center. He believed that the city would be able to accommodate future demand for office uses on the lands that remained.

Chairperson Harrison recalled the study performed with regard to Prologis, the City and office space. He asked if staff could give a presentation about this study as an information item.

Planning Director Schwob agreed that staff could present the relevant parts of that study to the Commission. A similar study was done for the Warm Springs Specific Plan Existing Conditions and projected economic conditions. That study predicted that the Warm Springs area could become a major high intensity employment center, because it was so well situated between two freeways and with BART coming to the area in the future.

Commissioner Chan understood that having residents in an area of mixed use would support the ongoing businesses. She would be more comfortable if she had some idea of the types of retail that could succeed in this development.

Vice Chairperson Lydon asked if the presence of this development would help or hinder the development the balance of the property that faced Liberty Avenue between Beacon and Walnut Avenues.

Planning Director Schwob replied that the amendment to the plan would retain the current designation for the remaining balance and that housing would be discouraged. This should ensure that more retail/office development could occur in the downtown. This project could be a test to ascertain if it would create the retail support that was expected. He knew that this developer had attempted to contact that property owner, but he seemed to be uninterested. It looked as if that property would stay vacant into the near future, which could provide a benefit to the city, as it would allow options to stay open.

Commissioner Sharma recalled reading that quality office space was not available within the city; therefore, the city could not compete with neighboring cities.

Planning Director Schwob mentioned several Class A office space building approvals, such as, the office next to the Benton on Civic Center Drive and Stevenson Boulevard and those located in Ardenwood.

Chairperson Harrison enjoyed his meeting with the applicant. He believed that Summerhill Homes had done some great projects. This project was very attractive but slightly different from what the city was used to. He agreed that the visibility was important, as compared to nearby parking. With the State Street connection, he felt that this project truly would be a gateway project and a key to the downtown development. He would support the project.

IT WAS MOVED (SHARMA/LORENZ) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1-0) THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

AND

RECOMMEND THE CITY COUNCIL FIND THE INITIAL STUDY HAS EVALUATED THE POTENTIAL FOR THIS PROJECT TO CAUSE AN ADVERSE EFFECT -- EITHER INDIVIDUALLY OR CUMULATIVELY -- ON WILDLIFE RESOURCES. THERE IS NO EVIDENCE THE PROPOSED PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES;

AND

RECOMMEND THE CITY COUNCIL APPROVE THE MITIGATED NEGATIVE DECLARATION FINDING THAT THERE IS NO SUBSTANTIAL EVIDENCE THAT THE PROJECT, AS MITIGATED, WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND FURTHER FIND THAT THIS ACTION REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;

AND

RECOMMEND TO THE CITY COUNCIL APPROVAL OF THE MITIGATION MONITORING PLAN FOR THE PROJECT;

AND

FIND PLN2005-00256 IS IN CONFORMANCE WITH THE RELEVANT GOALS CONTAINED IN THE CENTRAL BUSINESS DISTRICT CONCEPT PLAN. THESE GOALS INCLUDE CONCEPT PLAN GOAL 1: CREATE A RECOGNIZABLE AND MEMORABLE DOWNTOWN WHICH PEOPLE CAN TAKE PRIDE IN, AND TO WHICH PEOPLE WANT TO GO, CONCEPT PLAN GOAL 2: CREATE A DOWNTOWN COMPRISED OF A MIX OF LAND USES, CONCEPT PLAN GOAL 3: IMPROVE STREETScape DESIGN IN THE CBD, CONCEPT PLAN GOAL 4: IMPROVED AMENITIES FOR PEDESTRIANS IN THE DOWNTOWN FOCUS AREA, AND CONCEPT PLAN GOAL 5: ENCOURAGE A NETWORK OF STRATEGICALLY-PLACED PUBLIC AND PRIVATE PARKING FACILITIES AS ENUMERATED WITHIN THE STAFF REPORT;

AND

RECOMMEND TO COUNCIL APPROVE PLN2005-00256 TO AMEND THE CENTRAL BUSINESS DISTRICT CONCEPT PLAN LAND USE DESIGNATION FOR THE PROJECT IN CONFORMANCE WITH EXHIBIT "A" (CONCEPT PLAN AMENDMENT EXHIBIT) AND EXHIBIT "B" (CONCEPT PLAN AMENDMENT GRAPHICS EXHIBITS).

The motion carried by the following vote:

AYES:	6 – Chan, Harrison, Lorenz, Lydon, Sharma, Weaver
NOES:	0
ABSTAIN:	0
ABSENT:	1 – King
RECUSE:	0

Chairperson Harrison called a recess at 8:25 p.m.

Chairperson Harrison called the meeting back to order at 8:35 p.m.

- Item 6. **ROCK & NILES TOWNHOMES – 36153 Niles Boulevard – (PLN2006-00002)** - to consider a Finding of Site Plan and Architectural Approval, Vesting Tentative Tract Map, Private Street and Preliminary Grading Plan for a 40-unit townhouse development located in the Niles Planning Area. A Mitigated Negative Declaration was previously adopted for this project.

MODIFICATION TO STAFF REPORT AND EXHIBIT "1", CONDITION D-5:

Addendum to Background: On December 6, 2005, the City Council unanimously granted conditional approval of a summary vacation of two right-of-way easements and two emergency vehicle access easements, enabling the facilitation of the proposed project.

Modification to Architecture, Condition D-5, Exhibit "1": Initially, staff recommended that the proposed front entrances for units 15, 20, 34 and 40 be redesigned to be oriented towards Niles Boulevard, largely to achieve a more pedestrian oriented design, where the front doors of units face the street. A proposed condition (Condition D-5, Exhibit 1) was included to reflect that recommendation. However, upon further review of the project design and site's existing surrounding condition (i.e., adjacent to a major thoroughfare), staff recommends that the condition be modified as stated below. Staff believes that this modification will also enhance the overall quality of the project.

Condition D-5, Exhibit "1"

~~The front door entrances to units 15, 20, 34 and 40 shall be redesigned to be oriented towards Niles Boulevard. The front covered roofs of the patios for units 20, 34 and 40 shall be redesigned and enlarged to wrap around to their respective building sides facing Niles Boulevard, consistent with the modification to the front covered patio of unit 15 under Condition D-3.~~

Chairperson Harrison and Commissioner Lorenz disclosed they had met with the applicant.

Bo Crane, Project Manager for Standard Pacific Corporation, stated that this project was one of many current projects by his company in the Bay Area. A neighborhood meeting was held on August 30th and their comments and concerns had been taken into consideration with this design. This project would incorporate the city's minimum density of 40 units with 20 more parking spaces than was required. This project would improve the western entrance to the Niles District from a "weed-over lot next to an aging mall" to new homes surrounded by full landscaping.

Commissioner Sharma asked how the applicant saw the neighborhood parking problem evolving with the land that was currently being used for parking by the temple attendees when it would no longer be available because of his project.

Mr. Crane replied that he had asked the temple Vice Chairman how they planned to mitigate their parking problems, and he was told that along with parking in the current shopping center parking lot, the property next door had been acquired for use as a parking lot (for which they were in the process of raising funds), buses were used to shuttle people from various parking lots in town and volunteers walked the neighborhood. Twice a year major festivals were observed at the temple, along with others that occurred throughout the year. The shopping center was serving as an interim parking measure for the temple, and he did not believe his project would add to the neighborhood parking problems.

Chairperson Harrison asked about the August 30th meeting and what was the general consensus that was reached. He also asked if the temple had an official parking agreement with the shopping center.

Mr. Crane replied that 150 people had attended. The temple, schools and increased traffic were the main concerns. Hexicon Consultants believed that this development would bring in half as much traffic as the shopping center. He understood that the temple was leasing parking space from the shopping center owners.

Chairperson Harrison opened the public hearing.

Alan Heyman, nearby resident, had photos of the neighborhood parking problems that were shown to the Commissioners. He stated that he was not opposed to the project but had many concerns, as follows:

- Quality of life could be negatively affected
- Parking
Apartments along Rock Avenue were grossly under parked. That overflow parking already infringed upon nearby homeowners. One must pull out to the middle of Rock Avenue from any side street in order to see to turn. The temple had a large event approximately once a month and all parking spaces in the neighborhood were full by midmorning. He understood that the temple had no funds to construct a parking area on the land that they had purchased. When the proposed project was finished, the temple parking, now accommodated by the shopping center, would have to find parking space somewhere else.
- Traffic
It was nearly impossible to get out at that corner and a left turn was not possible in the mornings.
- Project Design
The Craftsman or Farmhouse style did not fit in with the neighborhood. There should be more "color and more interest in the look of the buildings, particularly the ones that face Rock Avenue and Niles Boulevard." He asked that a cookie cutter design not be "plopped down" in their neighborhood.

Commissioner Sharma disclosed that he had met with the previous speaker, and had spoken about this project.

Commissioner Lorenz also disclosed meeting the previous speaker.

Walt Reznicek, resident across the street, stated that he would be most affected by this project. His concerns were also parking and traffic. He requested that no project access be on Rock Avenue and that two accesses be made on Niles Boulevard instead. He asked that stop signs or signals be installed at the time of construction. He suggested that restrictive parking be introduced for the local residents. He understood that the Thai Temple hired the two policemen during the twice a year celebrations and all of their costs were paid by the temple.

Commissioner Sharma asked if one entrance into the site was from Niles Boulevard and if he had any issues concerning it.

Mr. Reznicek agreed and added that another entrance was on Rock Avenue. If there were no access onto Rock Avenue, the new development would not add to current traffic problem. He agreed that it was almost impossible to get onto Niles Boulevard in the morning.

Vice Chairperson Lydon asked what the speaker meant by "restrictive parking."

Mr. Reznicek stated that he meant permitted parking like the neighborhoods in San Francisco had.

Sharon Novotny resided on one of the side streets near the proposed project and she was also not opposed to the project. Her concerns were:

- Project should not stand out from the surrounding buildings, but should look like a part of the neighborhood.
- Parking
The garages would be directly to the front of the building structure and would not accommodate trucks or SUVs, so they would have to find parking offsite. With garages generally used for storage, there could be the need for offsite parking for many vehicles associated with this development. The development streets would be too narrow for parking, so parking would be pushed into the neighborhood.
- Traffic
Left turns onto Niles Boulevard were difficult, at best, during morning and evening commute times. She also requested a stop sign or signal at this intersection. She questioned the assertion that the development traffic would be half the traffic of "this little shopping center" with little traffic going in and out, except for the temple traffic on Sundays.
- Schools
She believed that the local schools would be negatively impacted, which could result in the children in this development being bussed to other schools.

Mavis Brown asked if another meeting had been held concerning this development. She recognized that this corner location was a good site for development. She also disagreed that a Seven/Eleven, a fast-food restaurant, a hair salon and a pet grooming facility located in the shopping center would generate more traffic than the proposed development. She also agreed that permit parking would help the current residents and that it was difficult to get out on Niles Boulevard. The current design of the townhouses was not compatible with what was already there and left much to be desired. She expressed surprise that the city had required the 40-unit density, which, in her opinion, would contribute to the traffic problems.

Planner Nguyen replied that no subsequent meeting had been held.

Chairperson Harrison guessed that the estimated vehicle-trips-per-day was probably correct, because the Seven/Eleven could generate as many trips as the entire project would. He asked how the speaker would classify the existing homes in the area. He asked if she preferred a signal at Rock Avenue and Niles Boulevard.

Ms. Brown replied that the area was "upper end" with very nice homes that were nicely maintained; two-story homes were in the immediate area. The Rock Avenue and Niles Boulevard intersection was where the signal was needed.

Ruel Brown agreed with everything that his wife, the previous speaker, had said. He asked that the city reconsider the high density that had been mandated, as that was his biggest concern and irritation. Parking on Rock Avenue was completely filled in the afternoon, evening and weekends because of the apartments and town homes located there. There would be no room for the new residents of this development to park on Rock Avenue. Therefore, it seemed that they would park on his street and all of the other side streets that ran off of Rock Avenue. He agreed that a residential parking permit would provide some comfort to the current residents. He wondered if the future temple parking lot would accommodate the same amount of vehicles as the shopping center did. He asked what the city could do to preserve the parking available to the residents at this time and could the city require the applicant to make sure the garages would accommodate the larger vehicles that so many people currently own.

Judy Heyman, resident on Turpin off of Rock Avenue, agreed that parking and traffic had become difficult since she had bought her home in 1978. She also agreed that getting onto

Rock Avenue from the side streets was unsafe because of all of the vehicles parked along Rock Avenue, even when it was posted No Parking, as “no one pays attention to the signs.” In her opinion, permit parking for the residents would be essential for the area. She admitted to doubting that restricted parking could be enforced when the police had more important things to do. She asked if someone other than the Police Department handled parking. She felt that the developer was not being sensitive to the needs of the community.

Chairperson Harrison asked comments from staff regarding the following:

- Schools and Zoning

Planning Director Schwob stated that all developers were required to pay school mitigation fees to the school district. The school districts were made aware of local development projects. It was up to the school district to use those fees and other resources to provide for the school facilities.

This was one of many sites throughout the community that had been rezoned to accommodate the regional housing needs determination, as put forth by the state. The density was considered appropriate for this site, because of the higher densities of the apartments on Rock Avenue and the townhomes on both sides of Niles Boulevard. He added that this site could have been redeveloped as a commercial site with even more intense use.

- Residential Parking Permit Program

City Engineer Hughes stated that he was aware of a Residential Parking Permit Program in only one neighborhood in the city. This situation was different in that the parking would move deeper into the residential neighborhoods, rather than out onto the major thoroughfare, as was the case in above-mentioned neighborhood. He did not believe a permit program would alleviate the parking problem in this community, and he agreed that the enforcement issue would be difficult, as it would also likely be considered a low priority by the Police Department.

- Signal

This developer would contribute traffic impact fees. Annually, a traffic signal priority list was evaluated every year according to the amount of warrants. Currently, this intersection was not high on the list. One signal was installed this year on Paseo Padre Parkway at Sailway. There were many others on the list, listed according to priorities. He believed that the present underdeveloped shopping center had a similar volume to what was projected for the new residential development. As a percentage of the traffic on Niles Boulevard, the development traffic volume would be minor. Currently, 15,000 vehicles a day traveled on Niles Boulevard. This project was estimated to add 150 vehicles a day on Niles Boulevard. He understood that the main issues were a matter of local parking and left turn convenience on Niles Boulevard.

Commissioner Lorenz added the accommodation of SUVs in the garages.

Planning Director Schwob felt that requiring a redesign of all buildings to accommodate the larger sized vehicles would cause the scale of the buildings to be out of scale with the pedestrian experience. He suggested that the surrounding residents had the same difficulty getting a SUV into their garages that had been built in the 1950s.

Planner Nguyen added that the city’s standards were designed to fit the general sedan-sized vehicles. Enlarging the garage door and its height would not be in proportion to the overall design of the building. A standard door would be 16 feet wide and seven feet high.

Chairperson Harrison asked if the Commission conditioned that a signal be installed by requiring the applicant to contribute 50 percent to the installation, would a signal at this location be moved higher up on the priority list?

City Engineer Hughes stated that it would not, because the installation of a signal was based upon traffic volumes and traffic signal warrants. Funding was not considered when looking at traffic signal warrants. The city required a minimum threshold for a traffic signal and this intersection might not even meet that minimum, no matter where the funding was coming from.

Senior Deputy City Attorney Seto clarified that requirements for traffic and street improvements were often required from developers, which often were related to mitigation measures relating to environmental impacts. In this instance, the level of traffic to be generated by this project did not generate the need for a signal.

Chairperson Harrison asked if anyone could explain what the temple's parking requirement is? And how many spaces do they have?

Planner Nguyen stated that current standards for religious buildings were one parking stall for every five seats. Based on the maximum occupant load of 95 persons, the required parking for the temple was 19 spaces. The site had 24 spaces.

Chairperson Harrison asked if anyone had any idea of the actual occupancy of the building and if there was an occupancy requirement for the multipurpose room.

Planner Nguyen replied that staff had contacted the temple and understood that activities occurred twice a year and sometimes on Sundays that drew a larger crowd. The occupancy load would include the multipurpose room.

Vice Chairperson Lydon asked if a Conditional Use hearing had been performed due to complaints. He wondered if there had been a violation of the occupancy load. He questioned the idea of one vehicle per every five seats in the building, which did not seem to fit with the parking problem the surrounding community was experiencing. It seemed that if the parking was exceeding what was mandated in the Conditional Use Permit, "we had a need for a sit down." This problem had spilled over into the neighborhood and was affecting the chances of this project to be approved. He believed that the residents were asking for a parking permit program not just on Rock Avenue but on other nearby streets, as well.

Planner Nguyen answered that no Conditional Use Permit hearing or referral had been made by staff. Staff was aware of neighbor's complaints of parking congestion on surrounding streets. A letter had been sent to the temple to meet with staff so they could be assisted with their plans to develop a parking lot. To date, that had not culminated in a formal application. A formal complaint would have to be received by staff from a local resident. He was not aware of any occupancy violation. He believed that many of the activities were outdoors, so the occupancy load would not be violated.

Vice Chairperson Lydon asked if it was the temple that had chosen not to come in.

Planning Director Schwob replied that staff was aware of the situation. Community Preservation had not received any formal complaints that would initiate a referral to the Planning Commission for reconsideration of their Conditional Use Permit. The leasing of the shopping center had temporarily alleviated the problem. It was difficult to restrict public parking on public streets. As was seen with the previous park facility item, people chose to park the closest distance to where they wanted to go. The parking standards for religious facilities was the problem. Staff had proposed on a few occasions to change the parking

standard, but it had been contested by the religious community. He believed that the bottom line to constructing the additional parking adjacent to the temple was the funding.

Vice Chairperson Lydon asked how many vehicles would the new parking lot accommodate.

Planner Nguyen stated that the new parking lot was approximately one acre.

Vice Chairperson Lydon asked for a ballpark figure of how many vehicles could park on an acre. He asked if the city had a role in fostering the current parking agreement between the temple and the shopping center owner.

Planning Director Schwob stated that it would depend upon the layout, but it should accommodate at least approximate 30 spaces. The city was not a party to the agreement.

Senior Deputy City Attorney Seto added that for projects that had the need for offsite parking, agreements were required by the city and recorded against the property that was providing the extra parking. At the time the Conditional Use Permit was approved, the temple met the parking requirement that was in place at the time.

City Engineer Hughes clarified that an acre parcel could hold as much as 125 parking spaces. He added that the existing lot had a house and other improvements that would have to be removed to provide the 125 spaces.

Chairperson Harrison asked if the final approval of a project could be conditioned upon someone else's parking situation.

Senior Deputy City Attorney Seto replied that would not be possible. She suggested that the Commission ask for a referral for another item concerning the parking at the temple at the end of the meeting.

Chairperson Harrison called the applicant to the podium to close with comments about the design style of the project and why some of the residents felt that it would not fit into their neighborhood.

Mr. Crane replied that he was unaware of a farmhouse style as an architectural design type. The site had apartments on two sides of it and townhouses were across the street. He agreed with the staff report that said this was a transitional project. He felt that the two-dimensional plan did not show the changes in elevations, different materials and the porches that would wrap around on Niles Boulevard. "Beauty was in the eye of the beholder." He was sensitive to the parking problems and he did not believe this project would add to them. The future homeowners association could enforce that the garages were left clear and available for two-vehicle parking. He noted that Item 4 was a project with a density of 50 to 70 units to the acre. This project would be designed to look like single-family residences, but they would be two-story townhouses. They would not be stacked, 50-foot tall townhouses that were proposed elsewhere in the city. All the zoning requirements and conditions would be met.

Commissioner Sharma asked if there was a way to have another meeting with the community and to work out the architecture, building colors and parking. He recalled other projects where agreement was achieved and the community had approved the project.

Mr. Crane stated that a second meeting had not been promised and all comments made at the only meeting were taken into consideration when designing the project. There could not be fewer units. A play area was included; the alleyways were widened to better accommodate people backing out of their garages, and the architecture involved a variety of

styles so that it did not look like a barracks. He believed that it would fit into the neighborhood.

Commissioner Sharma had no problem with the density. However, he believed that the neighbors had a right to critique the design of the project, because they would be looking at it and he agreed, "Beauty was in the beholder's eye." It was important that the neighborhood be happy with the design of the project, not what he would prefer. He asked again that another meeting be held with the neighbors.

Commissioner Weaver stated that they were asking the applicant to solve a problem that he had not created and one in which he had no control. She agreed that any change in parking requirements for religious facilities would bring people out in droves, because it would cost them to change their parking. It was unfair to hold the applicant responsible for the existing parking problems when considering his project. She felt going back to the neighbors would be "an exercise in futility" and it would not solve the problems. The design of the development was "undistinguished" and needed "a touch of class or oomph" to successfully transition between the high-end homes and the apartments. She asked if an entrance was not allowed on Rock Avenue, would that create more problems with two entrances on Niles Boulevard? She asked that staff and **Vice Chairperson Lydon** comment on emergency services, if both entrances were on Niles Boulevard. If the CC&Rs were followed, the mandatory parking in the garages should ease some the parking problems. She suspected that if the public who owned SUVs were asked how many parked them in their garages, not many did so because SUVs would not fit in any standard garage.

Planning Director Schwob replied that a project of over 25 units required two points of access. Two access points on Niles would be very close to the intersection, which could cause conflicts in movements and safety issues, which was why the circulation worked best with one access point on Rock Avenue.

City Engineer Hughes agreed that a second driveway would be too close to the intersection on Niles Boulevard with only a driveway access rather than the Rock Avenue access that would provide access to Niles Boulevard at an intersection.

Vice Chairperson Lydon believed that 40 units with access only on Niles Boulevard would exceed good sense with regard to EVAs. His recommendation was to leave the accesses as planned. He asked if there was some other traffic mitigation to alleviate the left-turn problem on Niles Boulevard.

City Engineer Hughes stated that stop signs would interrupt the traffic on Niles Boulevard and it would depend upon a significant need by cross traffic. This was one of many intersections where people had to wait to make a left turn.

Commissioner Lorenz asked how realistic was it to expect the homeowners association to enforce that vehicles were parked in the garages. How did the city arrive at its parking requirement for projects such as this? Where did the data come from?

Mr. Crane stated that homeowner association managers were required to make routine inspections and would be able to observe if garages were not be used for vehicle storage. Usually the disclosure discouraged those purchasers who did not plan to store their vehicles in their garage. He offered to print the disclosure on bright colored paper, so that it was not overlooked.

Planning Director Schwob stated that parking standards were based upon the number of bedrooms in the unit, which was 1½ spaces for one bedroom or studio unit, two spaces for two to four bedroom units and three spaces for five and more bedroom units. This was

based on surveys taken of other similar cities, which was the average or normal parking requirement.

Commissioner Lorenz asked how had parking requirements changed from what was required for Casa Arroyo Apartments and what was required at the present time. When would the project start, if it were approved by the Planning Commission?

Planning Director Schwob believed that the parking standards had not changed very much for multifamily units. He wondered if the assigned parking was being fully utilized versus people choosing to park in the visitor parking spaces and along the street, which might be closer to their units. Perhaps some allocation problem had occurred rather than an actual numbers problem.

Mr. Crane expected to start the project sometime in late spring.

Commissioner Lorenz asked if that six-month period before the project started would be enough time to work with the apartment complex and the temple concerning the parking.

Planning Director Schwob believed it would be enough time to work with the apartment complex and general approval of the temple's parking lot could probably be done, but the funding would have to be available before the temple could construct it.

Mr. Crane was surprised to hear the public comments about the architecture of the project, as there had been little comment during the community meeting. He clarified that the front of the buildings that faced Rock Avenue had most of the architectural detail with the alleyways having less. He promised to look into the garage door height to see what could be gained and other ways to "jazz up the front."

Chairperson Harrison agreed with **Commissioner Weaver** that the design needed some work to make certain that it fit architecturally into the surrounding neighborhood.

Chairperson Harrison closed the public hearing.

Vice Chairperson Lydon liked the suggestion that **Commissioner Lorenz** made to utilize the time between this hearing and the groundbreaking of the project to try to find some solution to the parking issue. He asked if anyone knew where the temple's offsite parking was located. He wondered if the total capacity of the offsite parking was enough to accommodate the spillover seen in the neighborhood.

Planner Nguyen believed that some of the city's parking facilities were used.

Mr. Crane stated that he had been told that the parking lot of the Head Start School (west of the site) and downtown parking facilities were used with a bus that shuttled people to and from the parking.

Planning Director Schwob assumed that the Head Start School lot was probably full if the downtown parking was being used. He felt that more conversations should be held with the temple, since the photos certainly showed the parking problem on Sundays. If they could not afford to construct the parking lot at this time, perhaps they could be encouraged to initiate a better shuttle system.

Chairperson Harrison asked if this hearing could act as the trigger to get Community Preservation to start looking into the parking problem caused by the temple or did that department still need something written by a neighbor?

Planning Director Schwob replied that evidence had been entered into the record through the photos that would allow the situation to be reviewed. The challenge was that the temple technically met the legal parking requirement and short of the building occupancy being more than allowed, it would be challenging to address the parking situation.

Chairperson Harrison reopened the public hearing.

Sue, a temple member, stated that she was not opposed to the project. She stated that the photos showed parking during one of two main events held each year. Shuttles were used for people parking at the Niles train station and BART. Their newsletter addressed parking and volunteers with walkie-talkies helped to control the situation. However, they could not force people to park where they felt was most convenient. She would love to see people who parked where they were not supposed to park receive parking tickets. Funding was not yet available for the new parking lot, but they were working to get it designed and get city permits for it.

Chairperson Harrison closed the public hearing, again.

Commissioner Sharma preferred that this item be continued to allow time for the applicant to work further with the neighborhood concerning the issues that had been brought up. How would that impact the ability of this project to move forward?

Planning Director Schwob imagined that the applicant would like to know as soon as possible what level of project would be allowed and whether they would be faced with appeal. Preparing the drawings and getting them approved by the city would take several months. Delaying a decision would mean delaying an appeal, which could delay the construction season in the spring.

Commissioner Sharma stated that he would like a condition to be added that would require the applicant to meet with the community to try to solve some of their issues while moving forward with their drawings and plans.

Commissioner Lorenz agreed with **Commissioner Weaver**, as the parking impacts were not caused by this development. The temple's Use Permit needed to be revisited and a dialogue should be opened with them. The buildings did look ordinary and they needed more architectural refining. The CC&Rs should have a separate requirement on bright paper that mandated that the garages be kept clear to accommodate two vehicles. A dialogue should be opened with Casa Arroyo Apartments to deal with their portion of the parking issues.

Vice Chairperson Lydon agreed with **Commissioner Lorenz**. The parking issues had overshadowed this project. The city should take a proactive approach to bring all parties together to make certain that everyone shared the impact of "unbridled parking." He suspected a different opinion from that expressed by the temple member of the twice a year spillover parking would be heard if the public hearing were opened again.

Commissioner Chan encouraged the neighborhood to engage in some fundraising to help the temple parking lot come to fruition. Fundraising was difficult. She asked about the Council's decision concerning the summary vacation of the right-of-way elements.

Planning Director Schwob reiterated that the Council did approve the summary vacation, contingent upon the project moving forward and several other things happening.

Commissioner Chan asked if the vesting tentative tract plan, the private street and the preliminary grading could be approved with the condition recommended by **Commissioner Sharma** that the community be solicited regarding the architecture.

Planning Director Schwob stated that would be possible, if the Commission wished to do so. He asked if the Commission would like the design to come back for review or would the review be delegated to staff.

Commissioner Weaver trusted the staff's judgment in architectural design, because this project had the basic skeleton of a good project. She agreed with the very visible CC&Rs disclosure concerning keeping the garage clear for two-vehicle parking and any condition that would improve the architecture.

Commissioner Sharma felt that staff could be counted on to review the architectural details.

Chairperson Harrison assumed that staff would bring it back to the Commission if a judgment call had to be made if there was a disagreement.

Commissioner Lorenz complimented staff on all of the Condition D modifications and he agreed that staff was able to take the architectural design changes forward.

IT WAS MOVED (WEAVER/SHARMA) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1-0) THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

AND

FIND THAT THE PREVIOUSLY ADOPTED MITIGATED NEGATIVE DECLARATION AND MITIGATED MONITORING PROGRAM FOR THE PROJECT ARE STILL VALID AND THAT THERE IS NO SUBSTANTIAL EVIDENCE THAT THE PROJECT, AS MITIGATED, WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND FURTHER FINDING THAT THIS ACTION REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;

AND

FIND THAT THE PROPOSED PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN AS ENUMERATED WITHIN THE STAFF REPORT AND FINDING EXHIBITS ADOPTED/RECOMMENDED HERewith;

AND

FIND THAT THE PROPOSED PROJECT AS SHOWN IN EXHIBIT "A" IS IN CONFORMANCE WITH THE STANDARDS AND POLICES OF PLANNED DISTRICT P-2004-81, AND THAT BASED ON THE SITE PLAN AND ARCHITECTURAL APPROVAL PROCESS CONDUCTED, THE EXCEPTIONS GRANTED TO THE GENERAL FRONT AND SIDE STREET SETBACK STANDARDS OF THE DISTRICT AND 3.5 FOOT SIDEWALK PRIVATE VEHICULAR ACCESS POLICY (PVAW) ARE WARRANTED FOR THE REASONS MENTIONED IN THE STAFF REPORT;

AND

FIND VESTING TENTATIVE TRACT MAP 7647 SHOWN ON EXHIBIT "B", PRELIMINARY GRADING PLAN SHOWN AND PRIVATE STREET SHOWN ON EXHIBIT "C" TO BE IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN AND STANDARDS OF THE FREMONT MUNICIPAL CODE;

AND

DELEGATE FINAL APPROVAL OF EXHIBIT "A" (FINDING, SITE PLAN AND ARCHITECTURAL APPROVAL), BASED ON FINDINGS AND CONDITIONS IN EXHIBIT "1" TO STAFF, SUBJECT TO IMPROVED ARCHITECTURAL DESIGN;

AND

APPROVE EXHIBIT "B" (TENTATIVE TRACT MAP 7647), BASED ON FINDINGS AND CONDITIONS IN EXHIBIT "2";

AND

APPROVE EXHIBIT "C" (PRELIMINARY GRADING PLAN AND PRIVATE STREET), BASED ON FINDINGS AND CONDITIONS IN EXHIBIT "3".

The motion carried by the following vote:

AYES: 6 – Chan, Harrison, Lorenz, Lydon, Sharma, Weaver
NOES: 0
ABSTAIN: 0
ABSENT: 1 – King
RECUSE: 0

Chairperson Harrison called a recess at 10:17 p.m.

Chairperson Harrison brought the meeting back to order at 10:29 p.m.

Item 8. QURESHI TENTATIVE PARCEL MAP - 46970 Ocotillo Court – (PLN2006-00043) - to consider Tentative Parcel Map 8811 to subdivide one single-family residential lot into two on property located in the Warm Springs Planning Area. This project is categorically exempt from the California Environmental Quality Act because it is a Minor Land Division as defined under Section 15315 of the CEQA Guidelines.

Planning Director Schwob introduced Project Planner Joel Pullen.

Satish Narayan, applicant, stated that special treatment had been made to the plan, as had been suggested by staff. He admitted that this lot had some stigma, as far as the neighbors were concerned, and he assured the Commission that this proposed lot subdivision was not for speculative use, but to accommodate two family members. Other subdivision activities had occurred in the neighborhood, some of which had resulted in lots that were smaller than these two proposed lots.

Vice Chairperson Lydon confirmed that this proposed subdivision was to be for family use. He asked if the applicant currently lived on the lot.

Mr. Narayan replied that Mr. Qureshi and his sister had bought the property jointly and each would occupy each new lot. The existing lot had one vacant home on it. With the subdivision of the lot, his clients would each own his/her own lot.

Commissioner Chan asked where the new garage would be located, since the existing garage would be demolished. She asked if it would be attached or stand-alone. She asked where the entrance would be located to the newly created lot 1.

Mr. Narayan stated that the new garage would be constructed on the right hand side of the existing home. The design of the garage had not been decided at this time, but he guessed that it would be added to the existing structure at the time that the structure was remodeled. The entrance to the new lot would also be on Ocotillo Court.

Chairperson Harrison opened the public hearing and asked that each speaker try to speak for less than the allowed five minutes.

Jim Reeder, President of the original development company and nearby resident, stated that he was closely related to this application in many respects. He summarized the Commission's minutes regarding a previous application for a three-lot subdivision that the Commission heard in November 2004. He felt the same position was applicable with this application where the Commission found that the proposed subdivision was "out of character in this particular case on that particular street, Ocotillo Court." In the 1960s the smaller lots were created to balance out the larger lots, such as were on Ocotillo Court. The current CC&Rs allowed, "No building other than an attached single-family dwelling house and appurtenant outbuilding, including garages, etc., for private use can be maintained or constructed on the property." This lot was meant to be a single-family lot. State law had

provisions that allowed appurtenant buildings to include mother-in-law quarters or other family quarters that could be constructed very logically on this property without subdividing. Once any of these properties was subdivided, there was the possibility "they could be sold off in a speculative manner." This area was designed to have a certain character and it should be preserved.

Manly Johnson, nearby resident, stated that one lot separated his lot from the property in question, which was of similar size. The two lot divisions at the bottom of the hill were less than the one-acre average in the area and were not consistent with the rest of the lots in the development. Numerous applications to subdivide lots in the development had been refused.

Vikram Mahal, lifelong resident on Yakima Drive, stated his home was next door to the proposed subdivision. This area had many trees and houses that did not dominate the landscape, unlike other city residential developments. One-acre lots were the norm on Ocotillo Court. He felt that vehicles driving at an unsafe speed down Yakima Drive should be taken into consideration when considering this subdivision. He stated that the home on the property was in "very bad shape," but it had not been vacant, as the applicant had mentioned. It seemed that there was no dire need to move into the existing house, so the owners must be living somewhere else. The property should be kept as it was.

Richard Frank, 21-year neighbor, gave a short Power Point presentation. He stated that it was frustrating to have to protest yearly the redesign of a development that was over 20 years old. One of the reasons he had purchased his home was because of the minimum one-acre lots, which allowed for just ten neighbors. The average lot size on Ocotillo Court was actually 1.64 acres, and the lot that was proposed for subdivision was one of the smaller lots. He asked the Commissioners to maintain the integrity of the court and deny the application.

Melissa Frank, daughter of the previous speaker, stated that the one-acre restriction had been recorded against the title and questioned the purchase of property that had been denied a subdivision previously and the ultimate plans for the two new lots. The subdivision would also be in nonconformance with the original development CC&Rs. This lot was planned to be subdivided into roughly one-third/two-thirds. She argued that if, in fact, two members of one family were to occupy the proposed two new lots, it would be possible for both family members to construct separate residences on the lot without subdividing it. The intent of the developers of this area was not to have small lots. They could find small lots elsewhere in the city. It seemed that the purchasers of the lot could have bought two separate homes on small lots for what they had paid for this property.

Surjit Mahal, 24-year resident on Yakima Drive, stated that the local residents had been fortunate not to have the very large homes on smaller lots as was seen in other areas of the city. The neighbors were lucky to live in a more natural environment, which was more conducive to the well being of the residents.

Mr. Narayan stated that he and his clients were sensitive to what had been said by the neighbors. Land use was not a static function, but a very dynamic force. Sometimes it changed faster and sometimes slower than was wished. A title search had been performed and no deed restriction was on the title; there was no restriction in the CC&Rs that prevented this kind of development. The proposed lots would still be much larger than the zoning code required. He guessed that the farmers of 100 years ago would groan and be upset at how the city had changed since then. Unfortunately, that was progress. This project complied with all city rules and regulations without deed and CC&R restrictions. He felt some offense at the suggestion that two houses on smaller lots could be bought someplace else. "Fremont was my town, as well."

Commissioner Sharma asked if the owner was different when a similar subdivision proposal came before the Commission last year.

Mr. Narayan replied that the owner was different. He understood that Planning Department staff and the Commission had approved the three-way subdivision proposal (he was unsure if Council had also approved it). The applicant had not pursued the subdivision after there was a third-party appeal.

Planning Director Schwob corrected the speaker's comments by stating that the Commission had denied the project, the applicant had appealed the decision and later withdrew.

Chairperson Harrison closed the public hearing.

Commissioner Lorenz stated, "If the zoning fits, we must permit." He asked if staff had approved the application because it fit within the zoning requirements. Under what conditions could the project be denied?

Planning Director Schwob replied that staff had recommended approval because there was precedent, based upon the General Plan and land use designation and the zoning for the area, which did not require large lots. There had been prior approvals of subdivisions in this area. Specific findings for denial had to be found by the Commission, such as, the map was not consistent with the applicable General Plan; the design or the improvement of the proposed subdivision was not consistent with the applicable General Plan; the site was not suitable for the type of development; the site was not physically suitable for the proposed density of the development; the design of the subdivision or the proposed improvements were likely to cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat, etc. When a subdivision of this property had come before the Commission previously, a particular land use goal discussed was, "New housing development, while conserving the character of the city's existing single-family residential neighborhoods." This meant that the pattern of development discussed at this hearing would be changed by this subdivision and, therefore, it would not be consistent with the character of the neighborhood and, therefore, would be inconsistent with the General Plan.

Commissioner Weaver noted that it was true that Ocotillo Court had large lots, but all of the lots across the street would be consistent with this proposed subdivision and facing proposed Lot Number 1. How far did one look when deciding if a proposal might fit in with the current development?

Planning Director Schwob stated that it would be a judgment call. This proposal was different from the last one, because one home would be visible from Yakima Drive, but two homes could be potentially visible on Ocotillo Court. Smaller lots were on the north side of Yakima Drive and larger lots were on the south side.

Commissioner Sharma stated that when standing on Yakima Drive and looking towards Ocotillo Court, all of the lots were large, which would be the criteria he would use to decide that the lot should stay the way it was and should not be divided.

Vice Chairperson Lydon had visited the site, again, and he felt that the situation for subdividing was not any different from last year. Not everyone in the city would want to live in that environment. He feared that if one lot was allowed to subdivide, then subsequent subdivisions would probably occur and the flavor of the neighborhood would be destroyed. The other side of Yakima Drive was different with smaller lots and a different layout. So Ocotillo Court and this side of Yakima Drive were the areas that should be considered when making this decision.

Chairperson Harrison agreed that this was a unique area of the city and everything possible should be done to preserve the character of the neighborhood. He would agreed with the finding made last year for denial of the project. He agreed that city planning did change over time, and he guessed that he might make a different finding 25 years from now, if most of the Ocotillo Court residents agreed to a subdivision.

Commissioner Weaver did not believe that the CC&Rs protected subdividing the lots. She would vote to deny the application. However, she was not sure that the residents had a lot of protection against subdivisions like this in the future.

Commissioner Chan asked what recourse the other side would have after the Commission made a decision.

Planning Director Schwob replied that one course of action would be for the property owners to propose a General Plan amendment, then a rezoning of the area so that the minimum lot size would be larger, which could preclude subdivisions in the future.

Senior Deputy City Attorney Seto added that the Covenants, Conditions and Restrictions probably covered the entire development and, theoretically, most of those were written in such a way that a super majority or a large number of homeowners could propose an amendment so that the CC&Rs could be amended to require a single home and to preserve the large lots.

Commissioner Chan disclosed that she had spoken to Mr. Reeder, and she understood that the homeowners association was inactive. It seemed that this application could be a call to reinstate the homeowners association and take action to preserve what the homeowners had at present.

Commissioner Sharma made a motion using the same wording and conditions as was used when this lot subdivision was denied the previous year.

IT WAS MOVED (SHARMA/LORENZ) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1-0) THAT THE PLANNING COMMISSION DENY TENTATIVE PARCEL MAP 8811 FOR A LOT SPLIT OF A 1.04-ACRE LOT AT 46970 OCOTILLO COURT. CALIFORNIA GOVERNMENT CODE SECTION 66474 (SUBDIVISION MAP ACT GROUNDS FOR DENIAL OF A TENTATIVE PARCEL MAP) REQUIRES FINDINGS FOR DENIAL OF A TENTATIVE MAP. PURSUANT TO THIS REQUIREMENT, AND BASED ON TESTIMONY GIVEN AT THE HEARING, THE PLANNING COMMISSION MADE THE FOLLOWING FINDINGS THAT THE PROPOSED TENTATIVE PARCEL MAP WAS NOT CONSISTENT WITH THE CITY OF FREMONT GENERAL PLAN:

- (A) THAT THE PROPOSED MAP IS NOT CONSISTENT WITH THE GENERAL PLAN BECAUSE THE PROPOSED TENTATIVE PARCEL MAP WOULD RESULT IN THE DEVELOPMENT OF HOMES ON SMALLER LOTS THAT WOULD BE INCONSISTENT WITH THE EXISTING CHARACTER OF THE NEIGHBORHOOD AND THUS WOULD BE INCONSISTENT WITH GENERAL PLAN FUNDAMENTAL GOAL F-2, HOUSING GOAL H-1, AND LAND USE GOAL 1.
- (B) THAT THE DESIGN OR IMPROVEMENT OF THE PROPOSED SUBDIVISION IS NOT CONSISTENT WITH THE GENERAL PLAN BECAUSE THE FUTURE DEVELOPMENT OF HOMES ON THE PROPOSED SMALLER LOTS WOULD NOT PRESERVE THE EXISTING, LARGELY INTACT CHARACTER OF THE NEIGHBORHOOD CONSISTING OF LOTS AVERAGING OVER ONE ACRE IN SIZE.
- (C) THAT THE SITE IS NOT PHYSICALLY SUITABLE FOR THE TYPE OF DEVELOPMENT BECAUSE IT WAS NOT CONSISTENT WITH, AND DID NOT

CONSERVE THE EXISTING LARGE-LOT RESIDENTIAL NEIGHBORHOOD ON OCOTILLO COURT. FURTHER, THE PLANNING COMMISSION FOUND THAT THE PROPOSED 2-LOT SUBDIVISION WOULD INTRODUCE MORE HOMES INTO THE NEIGHBORHOOD, COMPROMISING ITS EXISTING CHARACTER.

(D) THAT THE PROPOSED SUBDIVISION IS NOT IN KEEPING WITH PRESERVATION OF THE CHARACTER AND UNIQUENESS OF THE NEIGHBORHOOD, AND THEREFORE INCONSISTENT WITH LAND USE GOAL 1, WHICH ENVISIONS "NEW HOUSING DEVELOPMENT WHILE CONSERVING THE CHARACTER OF THE CITY'S EXISTING SINGLE FAMILY NEIGHBORHOODS."

Chairperson Harrison stated that an appeal would have to be made to the City Clerk's office within 10 days of this decision.

The motion carried by the following vote:

AYES:	6 – Chan, Harrison, Lorenz, Lydon, Sharma, Weaver
NOES:	0
ABSTAIN:	0
ABSENT:	1 – King
RECUSE:	0

Item 9. **DEER ROAD TENTATIVE TRACT MAP EXTENSION – 1238 Deer Road – (PLN2006-00102)** – to consider a request to extend Tentative Tract Map 7250, originally approved December 10, 2002, for a five lot subdivision of a property located in the Niles Planning Area. A Mitigated Negative Declaration was previously adopted for this project.

Chairperson Harrison opened the public hearing.

John Cant, upper Canyon Heights Drive resident, stated that he and his neighbors were very concerned about traffic due to this and other future nearby developments. The access to this five-lot subdivision would be an extension of the existing Deer Road, and it should be decided within the context of other proposed developments, which would total 48 homes. He had proposed alternative access routes in a letter to the Planning Commission and others, dated October 21, 2005. The fairest alternative to the existing homeowners would be to have no new traffic along Deer Road to the new Mission Peak Homes and the Greenbriar development. His solution was to provide a full access road through the "cherry stem," which emerged at the intersection of Clark and Canyon Heights Drives. Emergency Access only could be available through the current end of Deer Road. He asked that the three parcels be treated together when considering their impacts on the existing nearby residents. He asked that the tract map extension be delayed until the entire picture was available for these three developments.

Chairperson Harrison felt that it was not fair to make this applicant wait to see what the future applicants would do. It seemed to be more of an administrative matter that should not be tied to other future developments in the area.

Planning Director Schwob agreed that a potential for cumulative impact on the existing residents was possible. Staff had asked Greenbriar Homes for comprehensive infrastructure and circulation plans. Two points of access were required when more than 25 units were to be built. The types of access could be evaluated when the development proposals were brought forward. It made more sense to have the access from Deer Road for these lots and he recommended approval. The cumulative impact of development could be evaluated when the other two proposals were ready to be reviewed by the Commission.

Chairperson Harrison closed the public hearing.

IT WAS MOVED (WEAVER/LORENZ) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1-0) THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

AND

FIND THE PREVIOUS INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION FOR THE GENERAL PLAN AMENDMENT HAS EVALUATED THE POTENTIAL IMPACTS THAT COULD CAUSE AN ADVERSE EFFECT, EITHER INDIVIDUALLY OR CUMULATIVELY, ON WILDLIFE RESOURCES AND FIND THAT THERE IS NO EVIDENCE THE PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES;

AND

FIND THAT THE MITIGATED NEGATIVE DECLARATION, ADOPTED BY COUNCIL ON DECEMBER 10, 2002, CONSIDERED ALL IMPACTS RELATED TO THE PROJECT AND THAT NO NEW IMPACTS WILL RESULT FROM THIS DEVELOPMENT;

AND

FIND PLN2006-00102 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE AND HOUSING CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT;

AND

APPROVE A ONE YEAR EXTENSION TO DECEMBER 10, 2006, OF TENTATIVE TRACT MAP 7250, AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "B".

The motion carried by the following vote:

AYES:	6 – Chan, Harrison, Lorenz, Lydon, Sharma, Weaver
NOES:	0
ABSTAIN:	0
ABSENT:	1 – King
RECUSE:	0

MISCELLANEOUS ITEMS

Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.
- Report on actions of City Council Regular Meeting
- **Planning Director Schwob** reported that the City Council had approved the zoning text amendment regarding construction hours.

The 2006 Planning Commission calendar had also been approved by City Council.

- Resolution for Pauline Weaver

Chairperson Harrison read the Resolution of Appreciation and Commendation for Pauline Weaver from the City Council.

Commissioner Weaver stated that she had not expected to feel the sorrow she was now feeling when she had contemplated leaving the Planning Commission. She would miss all of

the wonderful friends she had made and she felt privileged to have worked with the excellent staff and all of the volunteers.

Chairperson Harrison stated that the person who would replace her on the Commission would have “big shoes to fill.”

Vice Chairperson Lydon stated that, given the emotion displayed by **Commissioner Weaver**, the vote on the resolution should be reconsidered.

Commissioner Lorenz recalled giving **Commissioner Weaver** a violet at a public event a few years ago and telling her how much he respected and admired her work for the community, which was even truer now.

Commissioner Sharma had known **Commissioner Weaver** and her husband for a long time and he invited them to come to his home to visit, again.

Commissioner Chan felt that **Commissioner Weaver's** insight had been very beneficial in helping her to make good decisions for the city. **Commissioner Weaver** had been a role model and Commissioner Chan hoped to be as good a Commissioner as **Commissioner Weaver** had been.

- Information from Commission: Commission members may report on matters of interest.

Commissioner Chan asked when the new report format would be instituted.

Planning Director Schwob had fully intended to use the new format for this last staff report of the year, but the volume of the report precluded using it at this time. The report for the first Planning Commission meeting in January would use the new format.

Meeting adjourned at 11:30 p.m.

SUBMITTED BY:

Alice Malotte
Recording Clerk

APPROVED BY:

Jeff Schwob, Secretary
Planning Commission